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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,957	10/11/2001	Masayuki Kushita	14987	7585
23389	7590	02/24/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			PHAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
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DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/974,957	KUSHITA, MASAYUKI	
	Examiner Joseph T Phan	Art Unit 2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 November 2004.
- 2a) This action is FINAL.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6,9,10,16 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6,9,10,16 and 19-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Objections***

1. Claims 9 and 10 objected to because of the following informalities: Claims 9 and 10 line 12 recites “designating readout...” There is a grammatical error to the flow of the phrase. Examiner will interpret as “designating a readout”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-10, 19-20, and 23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9-10 and 23 line 2 recites “...when calling up...” It is unclear and confusing who and what the phrase “when calling up” is referring to as it could refer to the “transmitting method” in line 1 or the “called/other party” in line 2 and makes the claims indefinite. The phrase “when calling up” needs a clear and define reference(e.g. “when being called” or “when originating a call”). Appropriate correction is required.

Claims 9 and 10 lines 6 and 11; claim 23 line 5; and claim 27 line 10 recites “...reading out text...” and/or “...readout of the text”. It is unclear and confusing what the meaning of “read/ing out” is, and makes the claims indefinite. It could mean “reading out loud(e.g. audibly)” or “retrieving” which are different. Appropriate clarification or correction is required.

Claim 9 line 12 recites "...a connection signals..." It is unclear and confusing if the connection signals refer to the "signal" from line 4 or if there are multiple signals different from the "signal" in line 4. Appropriate correction is required.

Claims 19 and 20 lines 9 and 14 recites "...reading out the text..." and "...readout of the text" respectively. It is unclear and confusing what the meaning of "read/ing out" is. It could mean "reading out loud"(audibly) or "retrieving". Appropriate clarification or correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 6, 9-10, 16, and 23-30 rejected under 35 U.S.C. 102(e) as being anticipated by Everett, Patent #6,701,162.**

Regarding claim 6, Everett teaches an automatic sound transmitting method of a cellular phone in acknowledgment of a response of the called party when calling up as claimed in claim 9, wherein contents of the text data are displayed on a display during the transmission (col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8).

Regarding claims 9 and 10, Everett teaches an automatic sound transmitting method of a cellular phone in acknowledgment of a response of a called party when

calling up comprising the steps of:

receiving a signal sent from a base station corresponding to a response of the called party to a call setup operation from a key-input section of a cellular phone(*cellular phones connects and performs transmission after the called party answers*); reading out text data stored in a memory converting the text data into audio data at a text-to-speech converter; transmitting the converted audio data to the called part via a radio transmitter/receiver(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8); displaying contents of the text data on a display during the transmission(col.2 lines 55-65); automatically terminating the call or disconnecting after the transmission of the audio data is completed(*Everett's user disconnects after transmission is completed*), designating readout of the text data during a prescribed period of time after the cellular phone receives a connection signals from the base station in response to an answer by the called party; indicating completion of the transmission on the display after the transmission of the converted audio data is finished(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8; *cellular phones display 'ended' after completion*); reading out another item of text data stored in the memory and supplying the text data to the text-to-speech converter while retaining the call; converting the text data into audio data at the text-to-speech converter; and sending the converted audio data to the radio transmitter/receiver in succession(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; two-way radios performs multiple transmissions on the same call).

Regarding claim 23, Everett teaches an automatic sound transmitting method of

a cellular phone in acknowledgment of a response of the other party when calling up, comprising the steps of: receiving a signal sent from a base station corresponding to a response of the other party to a call setup operation from a key-input section of a cellular phone; reading out text data stored in a memory; converting the text data into audio data at a text-to-speech converter in the cellular phone (col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47); transmitting the converted audio data to the other party via a radio transmitter/receiver, and automatically terminating the call or disconnecting after the transmission of the audio data is completed (col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; *Everett's user disconnects after completion*).

Regarding claim 24, Everett teaches an automatic sound transmitting method of a cellular phone in acknowledgment of a response of the other party when calling up as claimed in claim 23, wherein contents of the text data are displayed on a display during the transmission (col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47).

Regarding claim 25, Everett teaches an automatic sound transmitting method of a cellular phone in acknowledgment of a response of the other party when calling up as claimed in claim 23, wherein the readout of the text data can be designated during the call including the point of time of reception (col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47).

Regarding claim 26, Everett teaches an automatic sound transmitting method of a cellular phone in acknowledgment of a response of the other party when calling up as

claimed in claim 24, wherein the readout of the text data can be designated during the call including the point of time of reception(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47).

Regarding claim 27, Everett teaches a cellular phone comprising:  
a key-input section for inputting a telephone number when making a phone call, a text-entry and settings for respective functions;  
a radio transmitter/receiver for communicating with a base station by radio;  
memories for storing inputted character data as text data;  
a text-to-speech converter for converting the text data into audio data in the cellular phone(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; also see explanation from claim 9 above); and a controller which includes: a means for originating a call of a telephone number when the telephone number and a call up setup are inputted from the key-input section, a means for reading out the text data stored in one of the memories on receipt of a signal sent from the base station corresponding to a response of the other party to the call and supplying the text data to the text-to-speech converter in order to convert the text data to audio data, a means for sending the converted audio data to the radio transmitter/receiver, and a means for terminating the call or disconnecting after the transmission of the converted audio data is completed(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; also see explanation from claim 9 above).

Regarding claim 28, Everett teaches a cellular phone as claimed in claim 27,  
further including a means for displaying contents of the text data on a display during the

transmission(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; also see explanation from claim 9 above).

Regarding claim 29, Everett teaches a cellular phone as claimed in claim 27, further including a means for designating the readout of the text data during the call including the point of time of reception(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; also see explanation from claim 9 above).

Regarding claim 30, Everett teaches a cellular phone as claimed in claim 28, further including a means for designating the readout of the text data during the call including the point of time of reception(col.2 line 18-col.3 line 20 and col.3 line 62-col.4 line 8 and col.4 lines 39-47; also see explanation from claim 9 above).

***Allowable Subject Matter***

4. Claims 16 and 19-22 are allowable after addressing the 112 issues above.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach, inter alia, the combination together as follows: a cellular phone comprising a text-to-speech converter to convert key-inputted text to audio, retrieving text data from memory after the cellular phone receives a connection signal from the base station in response to an answer by the called party and converting the text into audio within the cellular phone, designating another text data stored in memory while retaining the call and supplying the text data to the text-to-speech converter for conversion into audio for transmittal to the called party continuously and displaying completion of transmission every time one of the plural text data has been converted into audio and transmitted.

***Response to Arguments***

5. Applicant's arguments with respect to claims 6, 9-10, 16, and 23-30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 9:00-6:30, in every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP  
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FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

